

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
ALBUQUERQUE DIVISION

UNITED STATES OF AMERICA,)	CASE NO: 1:21-MJ-00123-SCY
)	
Plaintiff,)	CRIMINAL
)	
vs.)	Albuquerque, New Mexico
)	
RYAN L. HARRIS,)	Wednesday, February 3, 2021
)	
Defendant.)	(11:06 a.m. to 12:05 p.m.)

PRELIMINARY EXAMINATION / DETENTION HEARING

BEFORE THE HONORABLE KIRTAN KHALSA,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: LETITIA SIMMS, ESQ.
U.S. Attorney's Office
201 3rd Street NW
Suite 900
Albuquerque, NM 87102

For Defendant: JACK (HAKOP) J. MKHITARIAN, ESQ.
1008 5th Street NW
Albuquerque, NM 87102

U.S. Pretrial/Probation: M. Pirkovic

Court Reporter: Recorded; Liberty: ABQ-ZOOM

Clerk: E. Hernandez

Transcribed By: Exceptional Reporting Services, Inc.
P.O. Box 8365
Corpus Christi, TX 78468
361 949-2988

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

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Albuquerque, NM; Wednesday, February 3, 2021; 11:06 a.m.

(Appearances via Zoom web video conferencing)

(Call to Order)

THE COURT: All right. We're on the record in United States of America versus Ryan Harris.

Please enter your appearances.

(Extraneous voices heard)

THE COURT: I hear somebody. Hold on, I'm sorry.

I hear somebody on here who's giggling and talking. So I don't know who it is -- okay, it's gone away so it may have been the agent.

Please enter your appearances.

MS. SIMMS: Letitia Simms on behalf of the United States.

MR. MKHITARIAN: And good morning, Your Honor. Jack Mkhitarian on behalf of Mr. Harris who appears --

I can't see him on the -- there he is.

-- appears by Zoom meeting today. I did send over a filed Waiver of Personal Presence at Hearing for the Court's consideration.

THE COURT: Good morning to both of you, Counsel. And Mr. Harris, good morning to you.

THE DEFENDANT: Good morning.

THE COURT: Can you tell me your name, sir?

THE DEFENDANT: Ryan Harris.

1 **THE COURT:** Okay. Mr. Harris, I have in front of me
2 a Waiver of Personal Presence at today's preliminary hearing
3 and detention hearing. Did you sign this document freely and
4 voluntarily after discussing it with your attorney and reading
5 it?

6 **THE DEFENDANT:** Yes, ma'am.

7 **THE COURT:** And do you consent to proceed this
8 morning by video?

9 **THE DEFENDANT:** Yes, ma'am.

10 **THE COURT:** Okay. All right. We will first move
11 into the preliminary hearing and the government can call its
12 witness.

13 **MS. SIMMS:** The United States calls Detective Kasey
14 Ramos (phonetic).

15 **THE CLERK:** Please raise your right hand, sir.

16 **KASEY RAMOS, GOVERNMENT'S WITNESS, SWORN**

17 **THE COURT:** Proceed.

18 **MS. SIMMS:** Okay. Thank you, Judge.

19 **DIRECT EXAMINATION**

20 **BY MS. SIMMS:**

21 Q Detective Ramos, have you in recent months have an
22 opportunity to investigate Mr. Ryan Harris?

23 A I have.

24 Q Do you see him on the Zoom video in one of these screens?

25 A I do. He's wearing the tan jumpsuit. The shirt has a

1 V-neck. There's a little bit of a tattoo sticking out and he
2 has a white mask on.

3 Q At some point did you become aware of an incident that
4 Mr. Harris had in March of 2020?

5 A I did.

6 Q Okay. And that was with -- that incident was investigated
7 by APD; is that right?

8 A That's correct.

9 Q Now, on the complaint it says, "On or about March 23rd,
10 2020". After a bit more verification, do you have another date
11 that you believe that this incident occurred on?

12 A I do. The original police report and criminal complaint
13 said the 23rd; however, when I was able to dial into it more, I
14 found out it was the 26th and not the 23rd.

15 Q And did you review lapel video in this matter?

16 A I did.

17 Q And does that APD lapel video indicate March 26th, 2020?

18 A It does.

19 Q Okay.

20 **MS. SIMMS:** And Judge, at this time I would argue
21 that it's on or about March 23rd. We can certainly file an
22 amended complaint if the Court would want. But we did catch
23 that before the hearing and I wanted to clear it up. (Glitch
24 in audio) -- like us to file an amended complaint, we can do
25 that but I can proceed with the probable cause portion of this

1 hearing if you like.

2 **THE COURT:** Any objection to an amendment by
3 interlineation here in court?

4 **MR. MKHITARIAN:** No objection, Your Honor.

5 **THE COURT:** All right. The complaint will be amended
6 by interlineation to reflect on or about the date of March
7 26th.

8 **THE DEFENDANT:** Now, that's great.

9 **THE COURT:** Mr. Harris, the reality is that the
10 criminal complaint charged on or about the date of March 23rd.
11 The government has clarified that with the witness' testimony
12 here.

13 And Ms. Simms, are you moving by interlineation to
14 correct the date?

15 **MS. SIMMS:** I am moving to amend the date by
16 interlineation. Thank you, Your Honor.

17 **THE COURT:** Okay. And there being no objection, the
18 Court grants the motion. But frankly, Mr. Harris, the Court
19 would have granted it anyway --

20 **THE DEFENDANT:** Okay.

21 **THE COURT:** -- over objection. So --

22 **THE DEFENDANT:** Okay.

23 **THE COURT:** -- I've heard sworn testimony regarding
24 the date.

25 All right. Let's continue.

1 **BY MS. SIMMS:**

2 Q Okay. Now, after reviewing the events of March 26th, did
3 you file a complaint in this matter?

4 A I did.

5 Q And was that approved by a United States Magistrate?

6 A Yes, it was.

7 Q Okay. And on March 26th of 2020, can you describe how
8 Albuquerque Police came in contact with Mr. Harris?

9 A Absolutely. The auto theft unit with APD was doing patrol
10 on the 300 block of Texas Street Southeast -- and which is
11 roughly Pennsylvania and Central within the city of Albuquerque
12 -- when they observed a 2020 Audi Q3 dark in color vehicle.

13 There was a license plate displayed on the vehicle.
14 They checked that license plate through MVD/NCIC and learned
15 that the vehicle was stolen or reported as stolen.

16 **THE DEFENDANT:** Yeah, you're right.

17 Q So upon viewing what they believed to be a stolen vehicle,
18 what did detectives with APD do?

19 A They conducted covert surveillance. They followed the
20 vehicle covertly to the Motel 6 which is at 8510 Pan American
21 Freeway still in the city of Albuquerque.

22 Q And what did they observe?

23 A The vehicle pulled into the parking lot and a male driver
24 who was identified later as Mr. Ryan Harris exited the vehicle
25 along with two females. They walked into the Motel 6 lobby.

1 A short time later Mr. Harris exited the hotel and
2 walked back towards the driver's seat. The detective noted
3 that he had a set of keys in his hand. And as he approached
4 the vehicle in question, the lights flashed -- which is typical
5 when a vehicle is being unlocked.

6 Q And what happened next?

7 A They challenged Mr. Harris. They identified themselves as
8 police officers at which point Mr. Harrison -- excuse me --
9 Mr. Harris refused to listen and ran to the south side of the
10 Motel 6 and he ran south and east.

11 Q Okay. And what did police do when Mr. Harris ran from
12 them?

13 A Some of them gave chase on foot; some of them gave chase
14 in a vehicle. One of the detectives was following Mr. Harris
15 in his vehicle at which point he observed Mr. Harris throw
16 something over a fence into an adjacent sort of neighborhood.
17 I watched lapel video and as the chase is going on the
18 detective remarks on video saying, "He just threw something
19 over the fence."

20 Q And when you watched the lapel video, can you see the
21 fence that is being referenced when the detective says, "He
22 just threw something over the fence"?

23 A At the time he says that, no, but it is visible after
24 Mr. Harris is taken into custody, I could see it.

25 Q Okay. Do you recall how long from when you heard the

1 detective say, "He just threw something over the fence," did
2 they have Mr. Harris in custody?

3 A Almost immediately after Mr. Harris threw that item, he
4 laid on the floor and surrendered. And there was probably a
5 30-second time delay where they waited for other detectives to
6 come up and then took Mr. Harris into custody.

7 Q Did you hear on the lapel video an exchange between this
8 detective and Mr. Harris, something to the effect of what he
9 said he -- Did you hear the detective inform other detectives
10 that he had thrown something over the fence?

11 A Yes. They said it -- he said it over the radio which was
12 -- you can hear audibly that "He just threw something over the
13 fence." And that detective relayed it to other detectives on
14 that air channel.

15 Q Did detectives search for the item that was seen being
16 thrown over the fence?

17 A They did. One detective went around into the
18 neighborhood. Several other detectives were trying to get over
19 the fence. The detective who saw the item being thrown,
20 Detective -- excuse me -- directed the other detective where he
21 saw the item being thrown, said it was thrown in this area. At
22 that point the detective checked the area and right there in
23 the middle of the open was a firearm.

24 Q Was that firearm collected?

25 A Yes, it was.

1 Q Did you personally do any investigation into this
2 particular firearm?

3 A I did. I went down and personally saw it at the APD crime
4 lab. It was a Taurus model G2C, and that's a nine millimeter
5 semi-automatic firearm.

6 Q Do you know whether or not that firearm was manufactured
7 in New Mexico?

8 A It was not manufactured in the state of New Mexico. I did
9 research and I also consulted a interstate Nexus trained
10 full-time ATF agent and it was not manufactured here.

11 Q Okay. Do you know whether or not this particular firearm
12 operated as it was intended?

13 A I believe it did. I conducted a function of the firearm
14 and after I did so I believe it functioned as designed.

15 Q It appeared to have worked properly?

16 A It did.

17 Q Okay. Now, you said earlier that the -- there were two
18 women that were observed to get out of the car at the hotel.

19 A Correct.

20 Q And I'm talking about the car that APD -- that came back
21 stolen.

22 A Correct.

23 Q Okay. Was -- did you ever have an opportunity to speak
24 with one of those women?

25 A I did.

1 Q And was that reference another pending investigation?

2 **THE DEFENDANT:** Objection. What does that have to do
3 what's going on right now? That has nothing to do what's going
4 on right now.

5 **THE COURT:** Mr. Harris --

6 **THE DEFENDANT:** That has nothing to do what's going
7 on right now.

8 **THE COURT:** Mr. Harris, you need to control yourself.
9 You don't get to make objections. You have an attorney who
10 will object --

11 **THE DEFENDANT:** You're right.

12 **THE COURT:** -- on your behalf.

13 **THE DEFENDANT:** You're right, I'm sorry. You're
14 right, I'm sorry, I apologize.

15 **THE COURT:** Just -- I just want to remind you that in
16 addition to not having outbursts in court because it's not
17 allowed --

18 **THE DEFENDANT:** I didn't know I couldn't object.

19 **THE COURT:** Hold on.

20 **THE DEFENDANT:** I didn't know I couldn't object, I'm
21 sorry.

22 **THE COURT:** Hold on. In addition to not having
23 outbursts and speaking out of turn, it's also really important
24 that you remember your right to remain silent and that anything
25 you say could be used against you.

1 **THE DEFENDANT:** I understand that.

2 **THE COURT:** So I would suggest that you not make
3 statements about your case or about witnesses in open court but
4 rather make statements through your attorney. If we --

5 So here's what I would suggest you do. Hear the
6 (glitch in audio) testimony. If your attorney has an objection
7 to testimony, he can make it; otherwise, what we'll do is when
8 it's his turn to cross-examine, before he does so, if you want
9 to consult with him and talk to him about the testimony, I'll
10 give you a chance to do that. But don't -- don't shout out in
11 the middle of the witness' testimony, okay?

12 **THE DEFENDANT:** I'm sorry, I understand.

13 **THE COURT:** Okay.

14 **MR. MKHITARIAN:** So I apologize I didn't go over that
15 with Mr. Harris, Your Honor, but I will object. I was waiting
16 to see where the line of questioning went on the grounds of
17 relevance, Your Honor. I don't think another investigation is
18 relevant to a probable cause determination today for this
19 particular charge, Your Honor.

20 **THE COURT:** Well we haven't heard where this
21 testimony is going but I'll just note that we're also set for a
22 detention hearing. And to the extent that the government's
23 eliciting information on the question of detention rather than
24 probable cause, just make it clear, Ms. Simms, in your response
25 to the objection. And frankly, to save time, I'm going to

1 allow that type of testimony.

2 But let me hear from the government in response to
3 the defense objection on the basis of relevance.

4 **MS. SIMMS:** Well, the particular evidence that I was
5 going to elicit is that this witness was there that night and
6 made statements about what she saw that night. I will be
7 talking about another investigation relevant to his detention
8 but this particular question was meant to elicit what that
9 witness saw.

10 **THE COURT:** Okay. All right. The objection is
11 overruled.

12 And again, Mr. Mkhitarian, I am going to allow
13 testimony on the question of detention just to expedite things.
14 And you will have a full opportunity to cross examine.

15 **MR. MKHITARIAN:** Thank you, Your Honor.

16 **THE COURT:** Okay. Go ahead.

17 **BY MS. SIMMS:**

18 Q So Detective, did you speak with one of the women that
19 were there with Mr. Harris that night?

20 A Yes, I did.

21 Q Did she confirm to you that he threw a gun over the fence
22 when he ran from police on March 26, 2020?

23 A She spoke of the event and said that during the event
24 Mr. Harris ran within a stolen vehicle, ran from police. She
25 did not specifically see him throw the firearm. She said that

1 she knew that he was armed at the time he ran from the police.
2 The view of the chase -- she was taken into custody before
3 Mr. Harris and the chase was out of her view but she did
4 confirm that he was armed that night.

5 Q Okay. And when police found him after he laid down on the
6 ground, did he have a firearm on his person?

7 A He did not.

8 Q Now, do you know whether or not Mr. Harris is a convicted
9 felon?

10 A I do and he is.

11 Q Are those felony convictions out of the state of Virginia?

12 A They are.

13 Q Is one of them a conviction for attempted breaking and
14 entering which in Virginia is a Class 5 felony punishable by up
15 to five years in prison?

16 A Yes, that's one of them.

17 Q Do you know that on that particular case he was sentenced
18 to five years; however, he -- five years with three years,
19 three months suspended, leaving a one-year and three-month
20 custodial sentence for Mr. Harris to serve?

21 A That's correct.

22 Q And you know that because you received his judgment and
23 sentence from Virginia; is that right?

24 A I did from two different courts.

25 Q Okay. And the one that I just asked about is that from

1 Hampton, Virginia?

2 A It was.

3 Q And where was the other one from?

4 A That's out of the (glitch in audio) New Circuit Court
5 (glitch in audio) Virginia.

6 Q And after reviewing that JNS, you know that Mr. Harris was
7 convicted in 2013 of attempted grand larceny; is that correct?

8 A Yes, that's correct.

9 Q And on that he was sentenced to 10 years, two of which --
10 or eight of which were suspended leaving a two-year prison
11 sentence; is that right?

12 A Also correct.

13 Q And also at that time he was convicted of statutory
14 burglary; is that right?

15 A Yes.

16 Q And for the statutory burglary he was sentenced -- he was
17 given a 20-year sentence; however, 17 years were suspended
18 leaving a three-year prison sentence; is that right?

19 A Correct.

20 Q Did he -- did Mr. Harris in any way acknowledge to police
21 that he was a convicted felon back on that date of incident in
22 March 2020?

23 A He did. He told that to a detective after being read
24 *Miranda* and then providing a statement, a brief statement.

25 Q Were you aware when detectives on that date of incident,

1 when they looked for what they sought -- the object that they
2 viewed Mr. Harris to throw over the fence, did they see
3 anything else in that area that could have been thrown or
4 didn't belong there?

5 A They did not. I actually spoke specifically to the
6 detective who found the gun and said it was right there out of
7 place in the middle of sort of like a residential area and it
8 was very obvious. As soon as he pulled up he could see it.
9 And there was nothing else that he could see that was the size
10 of the object that was thrown that he thought it could be,
11 besides a firearm, at least.

12 **THE DEFENDANT:** (indisc.)

13 Q And did this occur in Bernalillo County, New Mexico?

14 A It did.

15 Q Okay.

16 **MS. SIMMS:** Judge, if you don't mind, just to give
17 everyone notice, I'm going to start asking questions relevant
18 to the defendant's detention.

19 **THE COURT:** Okay. Let me just ask.

20 Mr. Mkhitarian, she is making a clear break between
21 the two. Do you want to cross examine on probable cause first
22 and then we'll move into the detention part of it, or are you
23 okay with hearing all the testimony and then cross examining?

24 **MR. MKHITARIAN:** I can but I'll defer to the Court on
25 how you want me to proceed. I'm prepared to cross examine if

1 the Court would rather I wrap up that portion of the testimony.

2 **THE COURT:** I mean, I'd prefer to just do it all now,
3 have the direct of everything and then you can cross examine on
4 everything. And before we do that I'll give you a chance to
5 talk to your client.

6 **MR. MKHITARIAN:** Yes, Your Honor, that will work, we
7 can do it that way.

8 **THE COURT:** Okay. As long as you're comfortable with
9 that.

10 Okay, Ms. Simms, go ahead.

11 **BY MS. SIMMS:**

12 Q Had Mr. Harris come onto your radar in any other matter
13 over the last month or two?

14 A He did. I investigated an arrest of Mr. Harris on
15 December 29th of 2020.

16 Q And generally, what was the purpose for you to make that
17 arrest?

18 A Generally it was related to domestic violence and human
19 trafficking.

20 Q Okay. Now the victim, the alleged victim of domestic
21 violence in that case, was that the same woman that you had
22 talked to who was there the night of March 26, 2020?

23 A That's correct.

24 Q Okay. And is she currently 18 years old?

25 A She is.

1 Q Is she the mother of Mr. Harris' child?

2 A She is.

3 Q And do you have an approximate timeline of that woman's
4 age when she became pregnant with Mr. Harris' child?

5 A Yes, she was approx -- well she was 17 year old --
6 17 years old at that time.

7 Q When she became pregnant with Mr. Harris' child?

8 A Correct.

9 Q Did she disclose to you that Mr. Harris had forced her to
10 engage in prostitution activities prior to her becoming
11 pregnant?

12 A Yes, she did.

13 Q Did she disclose that he had taken her to other states to
14 perform prostitution activities?

15 A Yes, she did.

16 Q Are you aware of any other victim, underage victim who has
17 also come forward prior to this regarding Mr. Harris making her
18 engage in commercial sex acts?

19 A I am. Some underage and some over 18 but many.

20 Q Okay. And isn't it true that -- well let me tell you.

21 Do you know whether or not Mr. Harris was in state
22 custody before he was brought into federal custody?

23 A He was.

24 Q And was a state judge determined that he would be held --
25 in the case that you're talking about in December, did a state

1 judge determine that he would be held on that case pending
2 trial?

3 A Yes, they held him for trial.

4 **THE DEFENDANT:** 'Cause you lied.

5 **THE COURT:** Mr. Harris, I remind you; don't talk.

6 **THE DEFENDANT:** He lied.

7 **THE COURT:** Go ahead.

8 **BY MS. SIMMS:**

9 Q And then just to make the record clear for the Court,
10 prior to Mr. Harris' preliminary hearing in that case --
11 because they don't do grand juries anymore -- the United States
12 attorneys or you filed a complaint in this case; is that right?

13 A That's correct.

14 Q Okay. But there was a detention hearing in that matter,
15 right?

16 A There was. I participated in it -- participated in it.

17 **THE DEFENDANT:** Yeah, you did.

18 Q And can you clarify how many -- it was one criminal matter
19 but how many police reports were involved in that state matter?

20 A Not including mine, there was three separate felony
21 domestic violence cases that were charged against Mr. Harris so
22 a total of over four different criminal incidents that involved
23 felonies that Mr. Harris was charged with.

24 Q Did any of those incidents involve weapons?

25 A Yes.

1 Q What kind of weapons?

2 A There was an allegation of a firearm and also an
3 allegation of a Molotov cocktail that was used in an attempt to
4 burn down a facility.

5 Q Was that facility a hotel?

6 A Yes.

7 Q Do you know the alleged domestic violence victim in that
8 case that you spoke with, do you know if she had had a
9 restraining order against Mr. Harris during that timeframe?

10 A She got a temporary restraining order against Mr. Harris
11 and some of the incidents occurred during the time of that
12 restraining order, not all of them.

13 Q Okay. Did those incidents include threats against that
14 woman's life or the lives of her family members?

15 A Yes, they did.

16 Q And those threats were made by Mr. Harris allegedly?

17 A Yes, allegedly.

18 Q Okay. Have you in your investigation in the last month or
19 so had an opportunity to view a Facebook page that you believe
20 belongs to Mr. Harris?

21 A Not specifically the page but I did review some postings,
22 yes.

23 Q Some postings, okay.

24 Did you see any evidence involving firearms from what
25 you viewed?

1 A There -- I have not specifically viewed that particular
2 post, no. I am aware of one but I have not viewed it myself.

3 Q Okay. Are you aware of one that may have been viewed by a
4 Homeland Security Investigations agent?

5 A I am.

6 Q Okay. Did you view any posts where Mr. Harris appeared to
7 have admitted engaging in violence?

8 A I viewed posts. I also saw surveillance video and
9 Mr. Harris admitted to it.

10 Q Okay, let's talk about the posts.

11 What posts did you see?

12 A The date of the initial investigation, there was a post on
13 Mr. Harris' Facebook page which we later confirmed was his, in
14 which he says -- and I can read it for you if you want me to
15 but he specifically mentions that he just beat his baby momma's
16 ass.

17 Q Why -- did he say in the post why he beat his baby mamma's
18 ass?

19 A He did. He said because she wouldn't -- I forgot what the
20 word was --

21 **THE DEFENDANT:** Yeah, lie.

22 **THE COURT:** Mr. Harris, please -- please stop with
23 the outbursts.

24 **THE DEFENDANT:** He lying. You right. You know what?
25 I'm sorry. You know what? I won't say nothing else. You know

1 what? You right. I apologize. You know what? It just -- he
2 -- they sitting here and they assassinating my character and
3 they lying but you know? You right. I mean, it's hard for me
4 because you're not -- I mean, you don't understand but I
5 totally understand. I'm sorry, Your Honor. I won't say
6 nothing else.

7 **THE COURT:** Okay, all right.

8 **THE DEFENDANT:** (indisc.).

9 **THE COURT:** This is for -- this is not only to avoid
10 disruptions in court but this is also in your interest that you
11 not speak.

12 Okay. go ahead, Mr. Ramos, finish your answer.

13 **THE WITNESS:** Can you repeat the question?

14 **BY MS. SIMMS:**

15 Q Yes.

16 Was there anything in the posts that indicated that
17 he beat his baby's mother because she refused to engage in
18 prostitution?

19 A That was exactly the post, not in those words but that was
20 the meaning of the post, correct.

21 Q Okay.

22 **MS. SIMMS:** Judge, I think that's all I have from
23 this witness on detention. I have other arguments from the
24 presentence -- you know, the pretrial report regarding
25 detention but that's all I have for this witness.

1 **THE COURT:** Okay. We'll take up arguments down the
2 road.

3 Mr. Mkhitarian, I'm going to give you an opportunity
4 to speak to Mr. Harris who really wants to talk to you before
5 your cross examination. So I'm going to put you-all in a
6 breakout room and then you can just come back when you're
7 ready. But we are running late on the docket so let's not make
8 this more than five minutes. Okay?

9 **MR. MKHITARIAN:** Yes, Your Honor. How do I get out
10 of the breakout room when we're done? Do I just message
11 somebody?

12 **MR. SPEAKER:** You can leave the breakout room or you
13 can ask me for assistance and I can --

14 **MR. MKHITARIAN:** Okay, thank you.

15 **THE COURT:** All right. And we'll just go off the
16 record until they come back in.

17 **(Off the record; On the record)**

18 **THE CLERK:** Okay, Judge, I think they're ready.

19 **(Pause)**

20 **THE COURT:** All right. Are you ready to proceed with
21 your cross examination?

22 **MR. MKHITARIAN:** Yes, Your Honor, thank you.

23 **THE COURT:** Okay. Go ahead.

24 //

25 //

CROSS EXAMINATION

1
2 **BY MR. MKHITARIAN:**

3 Q And is it Detective Ramos?

4 A Yeah, that's fine.

5 Q Okay. Detective Ramos, so just to be clear, you weren't
6 personally there at the scene; you're reading from reports,
7 correct?

8 A Related to the auto theft investigation?

9 Q Yes.

10 A Correct.

11 Q Okay. So you didn't personally see any of this?

12 A I watched lapel video; I look at the complaint; I look at
13 police reports. That's the extent of what I have seen.

14 Q Okay. So we'll talk about that.

15 In the lapel video, you can't actually see a firearm
16 thrown from Mr. Harris' hand; is that correct?

17 A That's correct.

18 Q And then did you have an opportunity to investigate this
19 case afterward? I heard you testify that you saw the firearm
20 personally.

21 A Yes, I have.

22 Q Okay. Were any fingerprints lifted from the firearm?

23 A It was processed for DNA and fingerprints and that is in
24 the midst of getting evaluated and tested.

25 Q Okay. You don't have any of the results for the Court's

1 consideration today, right?

2 A Do not.

3 Q Do you even know if you lifted a DNA sample that was able
4 to be tested, or are you still waiting to see even if you have
5 any DNA?

6 A The supplemental report by the crime scene specialist
7 specifically mentions a fingerprint. It does not specifically
8 mention DNA but they never do.

9 Q Okay. So but you don't have a hit, per se, on the
10 fingerprint yet for the Court's review?

11 A That's correct.

12 Q Okay. How long do those typically take?

13 A I depends upon the caseload. They can take sometimes
14 months, sometimes a year; it just depends on the caseload of
15 the particular lab that they're at.

16 Q What color was the firearm?

17 A The color of the firearm was black.

18 Q Now, back to the actual incident itself, Mr. Harris was
19 seen leaving the motel by himself, correct? He wasn't with
20 anyone leaving. So he goes into the house with somebody but
21 leaves by himself. Did I hear that correctly?

22 A A house or motel?

23 Q The motel.

24 A Can you rephrase the question? I'm a little confused.

25 Q Let me get some context.

1 So he's seen pulling up to the motel; he exits the
2 vehicle with a female, correct?

3 A Two females, yes.

4 Q Two females.

5 They go into the motel room, correct?

6 A They went into the lobby.

7 Q Lobby.

8 And then Mr. Harris is seen exiting at that point by
9 himself when officers tried to approach him?

10 A It doesn't specifically say by himself. I can tell you on
11 label videos when they first contact him, there are two females
12 that they detain and they are outside of the motel under the
13 potel (phonetic).

14 Q Okay. So at this point your testimony was that Mr. Harris
15 leaves. However, you can't see the actual firearm either in
16 his hand or on the video, correct?

17 A I did not see that; that's correct.

18 Q And the girl who testified -- or didn't testify but the
19 girl who made a statement that he had a firearm, she was
20 nowhere near Mr. Harris at the time that this firearm was
21 allegedly thrown, right?

22 A Yes. I think I made that clear. She didn't see the
23 chase.

24 Q Okay. Now, the girl that had given a statement, has she
25 changed her statement at all throughout your investigation?

1 A As related to the auto theft investigation --

2 Q Yes.

3 A -- or the other investigation?

4 Q Both, since we're doing both the detention and the auto
5 theft and the preliminary.

6 A As far as statements, she has never changed it to me.
7 There's been some other issues that have been brought up but as
8 far as me, as far as I go, she's been consistent this entire
9 time.

10 Q Can you elaborate on the other issues brought up that you
11 just --

12 A Sure. During the execution of a search warrant on a
13 vehicle Mr. Harris was found down, there were some letters
14 found in the glovebox in which this alleged victim, allegedly
15 recanted her statement and also gave full custody of Mr. -- of
16 their child to Mr. Harris.

17 Q So what story was she recanting exactly?

18 A She was recanting a domestic violence story that she
19 reported to Albuquerque police. It wasn't my specific incident
20 but it was one of incidents he was charged with. But I think
21 it should be said that she has denied that she wrote those and
22 she denied that she signed those.

23 Q Has she recanted or changed any other stories to your
24 knowledge?

25 A Not that I'm aware of. She's been very consistent as far

1 as I go.

2 Q Okay. Let's see here.

3 Now, the Facebook posts that you were talking about,
4 was that like an actual post? I know it's kind of confusing.
5 Or was it one of those story things? Was it a text or was it
6 like a video? Could you explain what the post was?

7 A I've never had any sort of social media so I don't know.
8 I can just tell you it was a picture of -- it said Facebook and
9 then it said it's Facebook handled. I don't know specifically
10 what that means as far as Facebook goes.

11 Q So it wasn't a video of him saying I beat somebody up. It
12 was like (glitch in audio).

13 A It was text, correct.

14 Q Do you know if anybody else has access to that Facebook
15 account other than Mr. Harris? Did you confirm that?

16 A We're in the process of getting those warrants -- getting
17 that phone processed. The only one that's told me that someone
18 else has access is Mr. Harris.

19 Q So it could be possible someone else made that post?

20 A According to Mr. Harris, yes. I have not run across any
21 information that would lead me to believe that it wasn't him.

22 Q Now, all these other cases that you were investigating
23 regarding human trafficking that -- regarding detention, those
24 have all been dismissed, correct?

25 A Dismissed in the state court and we're working them on the

1 federal side right now.

2 Q But in the state court's side they've been dismissed.

3 A They have.

4 Q So the conditions of release, the holding him in those
5 cases are no longer in effect, correct?

6 A On the state side that's correct, yes.

7 **MR. MKHITARIAN:** I have no further questions, Your
8 Honor.

9 **THE COURT:** Any redirect?

10 **MS. SIMMS:** Yes.

11 **REDIRECT EXAMINATION**

12 **BY MS. SIMMS:**

13 Q As far as you know, the dismissal of the state court
14 cases, that was not due to a lack of evidence, correct?

15 A It was not at all to do with that.

16 Q Now, you testified that somebody at some point found like
17 some type of letter supposedly written by Mr. Harris' baby's
18 mother recanting some of the domestic violence allegations that
19 occurred in December of 2020; is that right?

20 A Yes. I found them.

21 Q Okay. Can you describe more precisely what exactly you
22 found?

23 A In the glovebox there was three what appeared to be sort
24 of Word documents that were -- had typed, a typed format. The
25 dates were wrong but there was a bunch of misspellings and then

1 there was a notary stamp at the bottom. And I believe there
2 was three or four pages.

3 Q What do you mean when you say "the dates were wrong"?

4 A There was -- it was -- there was the reference to
5 dismissing the charges which she filed in January of 2021 but
6 by the time I found it, it had not been January of 2021 yet or
7 that specific date. I have a copy of it and I can get into
8 specifics but there was like a date in the future that she said
9 an incident didn't happen but it obviously couldn't have
10 happened because it was in the future.

11 And then I spoke to the alleged victim and she
12 strongly denied that she wrote, signed, or participated in
13 those.

14 Q Did these documents appear to be suspicious to you?

15 **THE DEFENDANT:** Everything suspicious to him, he the
16 police.

17 A I wasn't there when the documents were made, obviously.
18 The fact that it was typed was suspicious to me; the fact that
19 it was found in the glovebox and not given. Because he had
20 already been charged with several crimes related to this and
21 that document never came up. And then the biggest reason I
22 have to believe it wasn't real because I asked the alleged
23 victim herself and she was very adamant that she would never
24 give up her child -- which is what one of the documents said,
25 that she was going to give up her child to Mr. Harris. She

1 said she never signed that, she (glitch in audio).

2 **THE COURT:** Agent just got disconnected.

3 **THE DEFENDANT:** (indisc.)

4 **(Pause)**

5 **THE COURT:** Mr. Harris wants to speak to
6 Mr. Mkhitarian. Can you put them in a breakout room while
7 we're waiting for the agent to come back on please.

8 **(Pause)**

9 Let's go off the record for a minute.

10 **(Witness returned before going off the record)**

11 **THE WITNESS:** Okay, I'm ready.

12 **THE COURT:** Okay. You were in the middle of
13 answering a question when you got cutoff or you were in the
14 middle of testifying about the alleged recanting; and
15 specifically I think what the alleged victim had said about she
16 wouldn't have signed that because she would never have given up
17 custody of her child. I don't know if you recall where you
18 were but that's what I recall.

19 **THE WITNESS:** That's correct. That's basically where
20 I was going to finish was that she said she would never give up
21 custody of her child and that was one document. There was two
22 different documents, one that recanted one of the domestic
23 violence incidents and then one that gave full custody of their
24 child to Mr. Harris.

25 **BY MS. SIMMS:**

1 Q Now, and they were all typewritten; is that right?

2 A With the exception of the signatures, yes, everything was
3 typed.

4 Q Okay -- and okay.

5 MS. SIMMS: You know what, Your Honor, I don't have
6 any further questions.

7 THE COURT: Okay. Is there any reason that Detective
8 Ramos can't be excused?

9 MR. MKHITARIAN: I just have one question, one
10 question for Mr. Ramos on just something that was brought up
11 regarding the document that Mr. Harris was being asked.

12 THE COURT: Okay, go ahead.

13 **RECROSS EXAMINATION**

14 **BY MR. MKHITARIAN:**

15 Q Detective Ramos, those typed documents, were they
16 notarized?

17 A They were.

18 MR. MKHITARIAN: No further questions, Your Honor.

19 THE COURT: All right. Can Detective Ramos be
20 excused?

21 MS. SIMMS: Yes, Your Honor.

22 THE COURT: Mr. Mkhitarian?

23 MR. MKHITARIAN: Yes, Your Honor.

24 THE COURT: Okay. All right. Detective Ramos,
25 you're excused.

1 **(Witness excused)**

2 **THE WITNESS:** Thank you.

3 **THE COURT:** Although you're certainly allowed to
4 remain in court proceedings if you wish.

5 Okay. Any other witnesses?

6 **MS. SIMMS:** No, Your Honor.

7 **THE COURT:** Any witnesses, Mr. Mkhitarian?

8 **MR. MKHITARIAN:** No, Your Honor.

9 **THE COURT:** All right. Any argument that either side
10 wants to make for the record? I'm prepared to make a finding
11 of probable cause based on the testimony.

12 **MS. SIMMS:** Not for probable cause.

13 **THE COURT:** Mr. Mkhitarian, on probable cause?

14 **MR. MKHITARIAN:** On Mr. Harris' behalf, Your Honor,
15 he wishes to argue to the Court, no fingerprints of his were
16 found on the firearm, no DNA has been presented to the Court
17 for his consideration, no video of him throwing a firearm has
18 been presented, nor is there any video based on the officer's
19 testimony. So he would argue that there is no probable cause
20 linking the firearm to himself.

21 **THE COURT:** All right. Probable cause is not beyond
22 a reasonable doubt and based on the testimony that I've heard
23 in court today under oath, I find that there is in fact
24 probable cause to support the charge against Mr. Harris. This
25 matter will continue.

1 And now we will move into the detention portion of
2 this hearing.

3 Any -- it sounds like the government only has
4 argument at this point, no other witnesses.

5 Mr. Mkhitarian, do you have any witnesses?

6 **MR. MKHITARIAN:** No, Your Honor.

7 **THE COURT:** Okay. All right. So let me hear from
8 the government on its request that Mr. Harris remain in
9 custody. And I'll just note for the record that I have
10 reviewed the Pretrial Services Report, including Mr. Harris'
11 criminal history.

12 Go ahead.

13 **MS. SIMMS:** Yeah. I'm not going to rehash the
14 Presentence Report, crime for -- you know, arrests, per arrest
15 dating back to 2005 because the Court has had it. But there're
16 -- for the record there are multiple warrants issued in these
17 cases. There are at least two occasions where the defendant
18 FTA'd and then the case gets dismissed while he's in bench
19 warrant status which is bazar. So, you know, he is -- I hate
20 to say this but he's a poster child for just -- I mean, it's
21 amazing to look at this criminal history and to think that he's
22 only got these three felony convictions, not even in New Mexico
23 and Virginia but he never -- you know, everything is warrant
24 this, warrant that.

25 I mean, and then around Christmas of this year, he

1 picks up three different domestic violence cases, one or two of
2 them using a Molotov cocktail is insane, you know. And he's a
3 danger to the community; he won't show up; he travels all
4 around the United States; he's got priors out of Virginia; he's
5 got history in Georgia. It's -- I'm at a loss for how he's
6 still out walking around. If you let him out, he's gonna flee
7 and he's gonna go find this girl and he's gonna beat her and
8 that's what's gonna happen. So I think it speaks for itself.

9 I think that we know -- the Court heard that he is
10 suspected to have been trafficking at least two underage women
11 and that will bear out here. But Judge, he is -- he is
12 absolutely a danger and a flight risk and the United States
13 asks that he be detained.

14 **THE DEFENDANT:** (indisc.) hey, I'm done. I done.

15 **THE COURT:** Mr. Harris, are you deciding to leave the
16 hearing because we will continue without you.

17 **THE DEFENDANT:** I'm done (glitch in audio) (indisc.).

18 **MS. SPEAKER:** Sorry, Your Honor, I think --apologize
19 (indisc.). I do apologize for him just walking out.

20 Do you want him to come back in here?

21 **THE COURT:** I'm not going to force him back in. Why
22 don't you just let him know that the hearing will continue. He
23 has the right to be present for the entirety of the hearing but
24 he has -- he's got up and walked out. Give him an opportunity
25 to come back in; don't force him, and report back to me what he

1 says. But let him know that if he chooses not to be present
2 for the hearing, I am still going to complete this hearing and
3 I'm going to make findings one way or the other and so we're
4 not recessing this hearing.

5 **MS. SPEAKER:** Okay, one moment. Let me go ahead.

6 **(Pause)**

7 **THE COURT:** All right. Mr. Harris, I suggest that
8 you not walk out because if you do, I will take that as you
9 voluntarily choosing not to be present for the remainder of
10 these proceedings that you have the right to be present for.
11 I'm not going to recess the hearing. We will complete this
12 hearing today whether or not you choose to remain in the room.
13 I would suggest --

14 **THE DEFENDANT:** I understand.

15 **THE COURT:** I suggest you remain in the room.

16 **THE DEFENDANT:** I understand. I mean it's just --
17 it's hard for to hear somebody talk about me the way they talk
18 about me and I only got three -- like you said, I got three
19 convictions and --

20 **THE COURT:** Okay. Don't make any statement, sir. Do
21 not make statements against your interests. Anything you say,
22 including the statement you just made, could be used against
23 you so I suggest that you do not make statements.

24 Okay. I think the government's presentation ended so
25 let me hear from Mr. Mkhitarian.

1 **MR. MKHITARIAN:** Your Honor, I'd ask that Mr. Harris
2 be released. Based on the testimony, Your Honor, Ms. Simms is
3 correct; he has three convictions. He has appeared at his
4 court proceedings and resolved all those matters which is why
5 most of them, if not all of those warrants, were eventually
6 dismissed. I would argue that --

7 **THE COURT:** It's showing that he still has two active
8 warrants.

9 **MR. MKHITARIAN:** Regarding the other cases out of
10 Virginia, Your Honor. But Mr. Harris had asked that he be
11 released to the halfway house in lieu of custody.

12 **THE COURT:** Okay. All right. Mr. Harris, I've
13 considered the factors under 18, United States Code, Section
14 3142(g) and the information presented at the detention hearing,
15 and I conclude that you must be detained pending trial because
16 the government has proven by clear and convincing evidence that
17 you're a danger to the community and by a preponderance of the
18 evidence that you're a flight risk and that no condition or
19 combination of conditions of release will reasonably assure
20 your appearance as required and the safety of the community.

21 The weight of the evidence in this case against you
22 is strong, despite the lack of testing evidence at this point.
23 You are subject to a lengthy period of incarceration if
24 convicted.

25 I base my findings on your prior criminal history

1 that contains a history of participating in criminal activity
2 while on probation, a history of violence or use of weapons, a
3 history of alcohol or substance abuse reflected in your
4 criminal history; you have a history of prior failures to
5 appear in court, prior attempts to evade law enforcement, prior
6 violations of probation. You also have a warrant out of El
7 Paso County Court at Law Number 2 from Texas. You also have a
8 probation violation warrant out of Newport News Circuit Court
9 in Virginia, and you're alleged to have committed this and a
10 number of other crimes while on probation out of Virginia.

11 For all these reasons, sir, you're going to be
12 detained pending trial in this case.

13 Is there anything further we need to take up?

14 **MS. SIMMS:** No, Your Honor.

15 **MR. MKHITARIAN:** No, Your Honor.

16 **THE COURT:** All right. Mr. Harris, you have the
17 right to appeal the Court's detention ruling.

18 We're in recess on this matter. You're remanded to
19 the custody of the marshal service.

20 **(Defendant remanded)**

21 **(Proceeding adjourned at 12:05 p.m.)**

22

23

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25

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

March 5, 2021

Signed

Dated

TONI HUDSON, TRANSCRIBER